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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Eduardo Aguilera,

10 Petitioner,

11 v.

12 Charles L Ryan, et al.,

13 Respondents.
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No. CV-18-02660-PHX-SHR

ORDER

15 Pending before the Court is a Report and Recommendation issued by United
16 States Magistrate Judge Bruce G Macdonald that recommends denying Petitioner's
17 *habeas* petition filed pursuant to 28 U.S.C. §2254. A review of the record reflects that
18 the parties have not filed any objections to the Report and Recommendation and the time
19 to file objections has expired. As such, the Court will not consider any objections or new
20 evidence.

21 The Court has reviewed the record and concludes that Magistrate Judge Bruce G
22 Macdonald's recommendations are not clearly erroneous and they are adopted. See 28
23 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734,
24 739 (7th Cir. 1999); *Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

25 Plaintiff has also filed what the Court interprets as a Motion Requesting a
26 Certificate of Appealability (Doc. 87). Before Petitioner can appeal this Court's
27 judgment, a certificate of appealability must issue. See 28 U.S.C. §2253(c) and Fed. R.
28 App. P. 22(b)(1). The district court that rendered a judgment denying the petition made

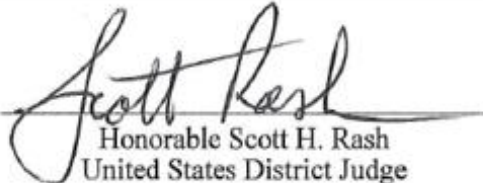
1 pursuant to 28 U.S.C. §2254 must either issue a certificate of appealability or state why a
2 certificate should not issue. *See Id.* Additionally, 28 U.S.C. §2253(c)(2) provides that a
3 certificate may issue "only if the applicant has made a substantial showing of the denial
4 of a constitutional right." In the certificate, the court must indicate which specific issues
5 satisfy this showing. *See* 28 U.S.C. §2253(c)(3). A substantial showing is made when
6 the resolution of an issue of appeal is debatable among reasonable jurists, if courts could
7 resolve the issues differently, or if the issue deserves further proceedings. *See Slack v.*
8 *McDaniel*, 529 U.S. 473, 484-85 (2000). Upon review of the record in light of the
9 standards for granting a certificate of appealability, the Court concludes that a certificate
10 shall not issue as the resolution of the petition is not debatable among reasonable jurists
11 and does not deserve further proceedings.

12 Accordingly, IT IS HEREBY ORDERED as follows:

- 13 (1) The Report and Recommendation (Doc. 85) is accepted and adopted.
14 (2) Petitioner's §2254 habeas petition is denied and this case is dismissed with prejudice.
15 (3) Petitioner's Motion Requesting a Certificate of Appealability (Doc. 87) is denied. A
16 Certificate of Appealability shall not issue.
17 (4) The Clerk of the Court shall enter judgment and close the file in this case.

18 Dated this 17th day of August, 2021.

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Honorable Scott H. Rash
United States District Judge